IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 5177 of 2001

1. Shri Arjun Jayvant Kadam
and others ..Petitioners

vs.

1. Miss Shamla Vishnu Deshpande
and others ...Respondents

Shri Gajendrasinh Jadhavrao for petitioner nos.3 and 6.
Shri Rajiv Patil with Shri Dushyant Purekar for respondent nos.2, 4 and 20.

CORAM: S.B.MHASE J.
25th April, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. Apart from the fact that number of times the matter was dismissed and restored since the petitioners and their counsel were absent. This petition is restored by this Court today and it is heard for admission as it is pending for admission since 2001. The petition is of 2001.

3. The order passed by Maharashtra Revenue Tribunal Pune in Revision application No.MRT-P-IV-1/85 (TNC.B.88/85) dated 14th September, 1988 is challenged in this petition. By the said order M.R.T., Pune has allowed the application filed by the respondents/landlords in tenancy case No.32-G/Katraj/24. The petitioners challenged the said order by the present petition which was filed on 27th

September, 2001 i.e. practically after a period of 11 years. It is to be noted that in para 4 it is stated that one of the appellant in the said revision petition, namely, Pandharinath Ramchandra Kadam had filed writ petition no.4879 of 1989 on 14th September, 1988 and in that petition, the present petitioners' father was shown as respondent. Before the petitioners' father was served in that petition, the said petition was withdrawn by that petitioners on 16th December,2000 by filing an affidavit to the effect that the dispute between respondent no.8 and Smt.Vijaya Vishnu Deshpande is mutually resolved. It is further stated in this petition that the order dated 14th September, 1988 passed by the Revenue Tribunal was not known to the petitioners and they came to know about both the orders when the names of the petitioners were deleted by the Talathi by effecting mutation entry bearing No.17486 on 17th July, 2001 and, therefore, the petitioners have approached to this Court. Thus, the delay is explained.

4. What is pertinent to note is that the original landlords had filed the tenancy case no.32-G/Katraj/24. In that application there were 13 respondents. One of the respondents was respondent no.12 Jaywant Ramchandra Kadam who was the father of the present petitioners. That application was rejected by the Additional Tahsildar and A.L.T.Haveli No.2 by order dated 31st August, 1979. The landlords preferred Tenancy Appeal No. 96 of 1979 before the Asstt.Collector, Haveli Sub Division, Pune. The said

appeal was dismissed by the Sub Divisional Officer. Therefore, the landlords had preferred the above referred revision before the M.R.T and father of the present petitioners was respondent no.12 in the said revision. Respondent no.1 in the said revision was one Pandharinath Ramchandra Kadam Pareet. The said Pandharinath had filed the writ petition no.4879 of 1989 for himself. In fact, after the decision of such rejection it was obligatory for respondent nos. 2 to 15 in the said revision application to challenge the order of the M.R.T. Since the father of the petitioners was respondent no. 12 in the said revision petition he was equally under the obligation to file writ petition by challenging the said order. It is pertinent to note that the father of the petitioners namely Jaywant died on 20th July, 2001. During the life time of the father of the petitioners he had not challenged those orders. and it is only after the death of Jaywant, the present petition has been filed by heirs alleging that they had no knowledge of earlier proceeding. The question is not of the knowledge of the present petitioners. The question is about the knowledge of the orders passed by M.R.T. by the said Jaywant, namely, the father of the petitioners. It is not the case of the petitioners that the said Jaywant had no knowledge of the orders passed by the M.R.T. The sum and substance of the above facts show that the orders passed by M.R.T. were not challenged by the said Jaywant during his life time and thus those orders have obtained finality as against him. Therefore, it was/is not permissible for the present

petitioners to challenge the said orders. While explaining the delay the present petitioners were also under obligation to explain the cause as to why the said Jaywant could not file the writ petition during his life time. However, no explanation is coming forward in this respect. It is further to be noted that out of the heirs of the said Jaywant who are petitioner nos. 1 to 6 only petitioner nos. 3 and 6 are desiring to pursue the matter and rest of the petitioners are not pursuing the matter. All these aspects persuade this Court that the petition suffers from delay and latches. Period of 11 years has not been properly explained by the petitioners and, therefore, this court refrains to entertain the petition. It is hereby rejected. Interim relief, if any, stands vacated.

(S.B.MHASE J.)